

## **REMARKS**

### **Claims**

Claim 1 is pending herein. Claim 3-5 and 16-18 have been withdrawn herein with traverse. No new matter has been added.

### **Election/Restriction**

In response the Restriction Requirement Applicants hereby elect the subject matter of Group I (Claim 1) with traverse.

First, Applicants would like to point out that the currently pending (unrestricted) claims are essentially identical to those that have been pending since November 3, 2004 and have since gone through substantial examination by several examiners. To require a restriction now would place undue hardship on the Applicant and is completely adverse to Applicants expectations based on the direction of prosecution.

Second, Applicants would like to point out that these claims are essentially identical to those that have examined twice (2x) by the instant Examiner. Claims 1 and 3-5 were also directed to a modified phosphorothioate oligonucleotide and a method for providing same to a mammal. New Claims 1, 3-5 and 16-18 are directed to the same composition and methods; however, they were amended to clarify the language of the claims to distinctly point out and recite that which Applicants regard as the invention. No new matter was added. In fact, the scope of the amended claims is basically the same.

While it is true that the subject matter of Claims 1 and 3-5 no longer overlap as a result of removing 2'-O-substituted CpG from the list of modified CpGs in Claims 3-5 (now the subject matter of Claims 16-18), the subject matter of these claims has already been extensively searched by this Examiner. The Examiner had no trouble searching these claims previously and it's not clear to Applicants what burden there would be on the Examiner to continue prosecuting these claims. At the very least, Claims 1 and 16-18 should be examined together as the subject matter does overlap and the composition and methods claims have already been extensively searched.

As the Restriction Requirement fails to establish a burden on the Examiner to continue with the search and examination that has already been carried out, Applicants respectfully request the withdrawal of the Restriction Requirement.

**CONCLUSION**

In view of the above remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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